HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No.27621 OF 1998

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Between:

Malgireddy Matta Reddy and 64 others

……Petitioners

And

Deputy Secretary to Government of India,
Ministry of Home Affairs, Freedom Fighters
Division, 1st Floor, Loknayak Bhavan,
New Delhi and two others

……Respondents

:: ORDER ::

Counsel for the Petitioners : Smt. K.Sesharajyam

Counsel for the Respondents : Sri A. Rajasekhar Reddy,
Assistant Solicitor
General

Dated: 08-08-2006

In this petition, Malgireddy Matta Reddy and 64 others have

prayed for issue of a direction to the respondents to sanction pension in their favour under the Swatantrata Sainik Samman Pension Scheme, 1980 (for short 'the 1980 Scheme').

In the affidavit filed by Sri Battu Satyam Reddy (petitioner No.4), it has been averred that all the petitioners except petitioner Nos.59, 60, 63, 64 and 65 had participated in the freedom struggle launched for liberation of Hyderabad. Petitioner Nos.59, 60, 64 and 65 are the spouses of Sarvasri T.Achi Reddy, Pulla Reddy, Kesavaiah and Kondaiah (all deceased) respectively who are said to have taken part in the Hyderabad Liberation Movement. Petitioner No.63 is the son of Malla Reddy, who too is said to have taken part in Hyderabad Liberation Movement. The deponent has further averred that even though the petitioners have submitted applications and produced evidence in support of their claim for grant of pension, the respondents have not decided the same.

In the counter affidavit filed by Sri R.K. Yadav, Deputy Secretary in the Ministry of Home Affairs, Government of India, it has been averred that Hyderabad Special Screening Committee constituted by the Government of India has made recommendations in favour of the petitioners except petitioner No.63, but keeping in view the spirit of order dated 24-09-1997 passed by this Court in Writ Petition No.4420 of 1997, the cases of the petitioners except that of petitioner No.63 were referred to the State Government for verification and report of the State Government is awaited. For the sake of convenient reference, the averments contained in paras 3 to 10 of the counter affidavit are extracted below:

> "3.During the Silver Jubilee year of Independence a Central Scheme for grant of pension to freedom fighters and their families (if they were no more alive) and to the families of Martyrs was introduced by Government of India with effect from 15.8.1972. In 1980 the Scheme was

liberalised and renamed as “Swatantrata Sainik Samman Pension Scheme, 1980” and made effective from 1.8.1980.

3.1 For the purpose of grant of Samman Pension under the Scheme, a freedom fighter is a person who, on account of his participation in freedom struggle, had suffered a minimum imprisonment of six months in the mainland jails before independence. Ex-INA personnel are also eligible for pension if the imprisonment/detention suffered by them was outside India for six months or more. In case of a Women and SC/ST freedom fighters the minimum period of actual imprisonment is three months. A person who remained underground for six months or more provided he was (i) a proclaimed offender or (ii) one on whom an award for arrest was announced or (iii) one whose detention order was issued but not served are also eligible for pension. Voluntary underground suffering or self-exile suffering for party work under the command of the party leaders are not recognized for consideration for grant of Samman Pension. Further a person who was interned in his home or externed from his district under the orders of the competent authority for six months or more, a person whose property was confiscated or attached and sold due to participation in the National Freedom struggle under the orders of the competent authority, a person who was permanently incapacitated during the firing or lathicharge, a person who lost his Government job for participation in National freedom Struggle and a person who was awarded the punishment of 10 strokes of canning/flogging/whipping are also eligible for grant of Samman Pension Scheme. The movement for merger of erstwhile Princely States within the Indian Union after 15.8.1947 are considered as part of the National Freedom Struggle for the grant of Samman Pension under the Scheme.

3.2 Persons who consider themselves

eligible for Samman Pension under the Scheme, should apply in duplicate on the prescribed application form. One form duly filled and supported by required documents as proof of claim of suffering should be sent to the Chief Secretary of the concerned State Government/Union Territory Administration. The second copy should be sent to the Deputy Secretary to the Government of India as an advance copy. The applicant should furnish the following documents, whichever is applicable, in order to prove his claimed suffering for grant of pension under the Scheme.

(A). Imprisonment/detention certificate from the concerned Jail authority, District Magistrate, or the State Government indicating the period of sentence awarded, date of admission, date of release and reasons for release. In absence of such a certificate from official records a Non-Availability of Record Certificate from the concerned State/Union Territory Administration alongwith co-prisoner's certificate as detailed in the Scheme.

(B). Documentary evidence by way of Court's/Government's orders proclaiming the applicant as an absconder, announcing an award on his head or ordering his detention. In absence of such a certificate from official records a non-availability of records certificate from the concerned State/Union Territory Administration alongwith a certificate from a prominent freedom fighter who had undergone imprisonment for a period of at lease two years.

(C). Orders of Internment or Externment issued by the competent authority from Official records as detailed in the Scheme.

(D). Orders of confiscation and sale of property or of dismissal or removal from Government service.

(E). Certificate from the District Magistrate to the effect that permanent incapacitation was done by bullet, injury/lathicharge sustained during

participation in the National Freedom Struggle and a medical certificate from the Civil Surgeon in support of the handicapped.

(F). Copies of the orders from Official records passed by the competent authority as regards punishment of 10 strokes of canning/flogging/whipping.

3.3 The receipt of the application is acknowledged. The claim is to be scrutinised by the State Government/Union Territory Administration concerned with the State Advisory Committee, if any. On receipt of the report from the State/U.T. Administration as regards the verification and entitlement to pension, the claim of the applicant is granted as per policy guidelines of the Government in the matter. Applicants whose applications are not approved are duly informed of the decision of the Government.

4. The Hyderabad Special Screening Committee (HSSC) was constituted in 1983 to consider claims of freedom fighters relating to the struggle for independence and merger of the erstwhile Nizam State of Hyderabad with the Indian Union in 1947-48. The need for such a non-official Committee was felt as no official records were available to establish the sufferings of a large number of freedom fighters who participated in border camps. The purpose of constitution of the Committee was to substitute the lack of documentary evidence with the personal knowledge of the members who were leading lights of the movement. The terms of reference of HSSC included evolving its own procedures and documentary requirements. However, the minimum period of suffering of six months as per the Swatantrata Sainik Samman Pensioin Scheme, 1980 remained. Initially, the last date for filing applications was fixed on 25.10.1985. On the basis of report from persons in-charge of border camps and other available information the HSSC estimated the number of participants at about 7,000

in the Telangana, Marathwada and Dharwar regions of present dat A.P., Maharashtra and Karnataka, respectively.

5. During the period 1985 to 1996 the HSSC considered about 21,000 applications and recommended the pension in about 7,000 cases (including about 3,500 cases from Telangana) while not recommending pension in about 14,000 cases. Pension was, accordingly, sanctioned in the 7,000 recommended cases and the 14,000 non-recommended cases were rejected. Information of rejection was duly communicated to the applicants.

6. In December, 1996 the HSSC was reconstituted for the reason that the freedom fighters of Telangana region felt that they had not been given their due although the said movement was concentrated mostly in that region. On its reconstitution the terms of reference of the HSSC remained the same as for the earliers HSSC. Since its reconstitution (i.e. January, 1997 to May, 1997) the HSSC have considered about 1,500 old cases and recommended sanction of pension in about 770 cases. The HSSC was again reconstituted in June, 1997 as the Chairman expired in May, 1997. From June, 1997 to December, 1997 the HSSC considered a further 13,500 old and fresh cases and recommended sanction of pension in about 12,000 cases. The term of HSSC was extended up to about 31.5.98 to consider only those cases wherein the Hon'ble High Court passed orders to place the cases of the petitioners before the HSSC.

7. Thus, since its reconstitution in December, 1996 the HSSC have considered in all about 41,000 old/rejected and new/fresh claims and recommended sanction of pension in about 13,500 cases. The recommended cases include about 7,000 old/rejected cases, about 3,000 applications supported by documentary evidence of having filed the applications earlier as claimed, and about 3,500 fresh or recent claims. These cases also include

cases wherein this Hon'ble Court have passed directions. The cases covered by the recommendation for sanction by the HSSC are to be disposed of after due examination and subject to further orders of this Hon'ble Court in W.P. No.4420 of 1997.

8. That during the period of 1985 to 1996 the HSSC recommended the grant of pension in about 7000 cases. As against this, the HSSC which was reconstituted in December, 1996 recommended grant of pension in about 13,500 cases during the period January, 1997 to May, 1998. It is submitted that the Government of India received complaints from several quarters containing allegations that several cases recommended by the HSSC were of doubtful nature as these belonged to persons who were really not eligible for freedom fighters pension. Writ Petitions were also filed before the Hon'ble High Court challenging the recommendations of the HSSC. The Writ Petitioners alleged that the HSSC recommended the cases of bogus freedom fighters. The Hon'ble Court have considered these issues in Writ Petition No.4420 of 1997 and passed interim order, dated 24.9.97, directing the respondent to keep in abeyance action consequent to the recommendations of the HSSC made on or after 24.9.97. The recommendations of the HSSC have also been challenged in some other Writ Petitions before this Hon'ble Court. Keeping in view the concern expressed by various persons the matter was reviewed by the Government of India. It was considered necessary to ascertain the genuineness of the claims after getting the same verified by the State Government in accordance with the provisions of the Scheme.

9. That the records pertaining to the petitioners reveal that they have claimed underground suffering on account of participation in the Hyderabad Liberation Movement during 1947-48. Their cases were placed before the Hyderabad

Special Screening Committee especially constituted by the Government of India to consider such cases. The Hyderabad Special Screening Committee considered their cases at its meeting held during February, 1997 and recommended all the petitioner's cases except the petitioner at serial No.63. The case of the petitioner at serial No.63 stands not recommended by the Committee.

10. That the recommendations of the Committee (HSSC) in the matter were examined by the respondent. For the reasons stated in Para 8, keeping in view the spirit of the directions of this Hon'ble Court in the above referred writ petition and to ensure that the benefit goes to the genuine persons only, the respondent Government of India have taken a decision to refer all the pension-cases including the cases recommended by the HSSC, to the State Government for verification in accordance with the provisions of the S.S.S.Pension Scheme. The cases will be decided on receipt of the necessary verification report of the State Government. In accordance with the decision of the Government, the cases of the petitioners have been referred to the State Government of Andhra Pradesh for necessary verification and report. The cases of the petitioners will be decided on receipt of the necessary verification report from the State Government of Andhra Pradesh and the decision will be communicated to them. It is submitted that verification of the claim by the State Government is necessary as per the extant procedure for grant of pension under the S.S.S. Pension Scheme."

In the context of the averments contained in the counter affidavit filed on behalf of respondent No.1, I inquired from the learned Government Pleader for Revenue whether the State Government has completed the process of verification. In reply, learned Government Pleader submitted that the process of verification would be completed

by the Committee constituted by the State Government vide G.O.Rt.No.1680, dated 02-08-2006 and appropriate recommendations will be made to the Government of India within a period of two months.

Learned counsel for the petitioners submits that petitioner No.63, whose case has not been recommended by the Hyderabad Special Screening Committee may be given liberty to submit fresh application along with evidence to substantiate his claim for grant of pension under the 1980 Scheme.

In view of the averments contained in the counter affidavit of Sri R.K.Yadav and the statements made by the learned Government Pleader for Revenue and learned counsel for the petitioners, the writ petition is disposed of in the following terms:

1) Within two months from the date of receipt of copy of this order, the Committee constituted by the State Government vide G.O.Rt.No.1680 dated 02-08-2006 shall undertake verification of the claim of petitioner Nos.1 to 62, 64 and 65 keeping in view the recommendations made by the Hyderabad Special Screening Committee. Thereafter, the State Government shall forward its report to the Deputy Secretary, Ministry of Home Affairs, Freedom Fighters Division, Government of India.

2) Within two months of the receipt of the report from the State Government, the concerned authority of the Government of India shall finalise the claims of petitioner Nos.1 to 62, 64 and 65. The orders passed by the competent authority shall be communicated to each of the petitioners.

3) Those of the petitioners who are found eligible and entitled to receive pension should be given monetary benefits within next one month. The

arrears, if any, admissible to the petitioners be paid to them within next three months.

4) Petitioner No.63 is given liberty to submit fresh application along with documentary evidence in support of his claim for grant of pension under the 1980 Scheme. Such application shall be considered and disposed of by the competent authority within three months of receipt thereof.

G.S. SINGHVI, CJ

08-08-2006

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Note: The Court Officer is directed to give attested copies of this order to the counsel for the petitioners, Assistant Solicitor General and the Government Pleader for Revenue.

B/O

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